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HOUSE JOURNAL

OF THE

STATE LEGISLATURE.

SECOND SESSION.

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HOUSE OF REPRESENTATIVES,
Wednesday, February 20, 1867.

Pursuant to the Proclamation of his Excellency, Alvin Saunders, Governor of the Territory of Nebraska, which is as follows:

Whereas, the Congress of the United States has passed an act admitting, conditionally, Nebraska into the Union, as one of the independent States of the same; and,

Whereas, Said condition is in the words following: "And be it further enacted, that this shall take effect with the fundamental condition, that within said State of Nebraska, there shall be no abridgement or denial of the exercise of the elective franchise, or any other right to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition, that the Legislature of said State, by a solemn public act, shall declare the assent of said State, to said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon the receipt whereof, the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete.

Now therefore, I, Alvin Saunders, Governor of the Territory of Nebraska, do call upon the members of the State Legislature of Nebraska to meet at the Capitol, in the City of Omaha, on Wednesday, the twentieth day of

February instant, at the hour of 2 o'clock P. M. for the purpose of taking action upon the conditions proposed by Congress.

In testimony whereof I have hereunto set my hand, and caused to be affixed the Great Seal of the Territory of Nebraska.

Done at Omaha, this 14th day of February, A. D. 1867.

[SEAL.] ALVIN SAUNDERS.

By the Governor.

ALGERNON S. PADDOCK, *Secretary.*

The House met at 2 o'clock P. M.

The House was called to order by W. F. Chapin, of Cass Co., upon whose motion H. W. Merrille was chosen Chief Clerk, *pro tem.*

On motion of John E. Kelley of Platte, John E. Myers was chosen Assistant Clerk *pro tem.*

On motion of A. B. Fuller, of Cass, those claiming to be members of the House proceeded to file their certificates with the Clerk.

The following persons presented their credentials:

D. M. Anderson, J. R. Butler, William Baker, Thos. J. Collins, George Crowe, E. L. Clark, Demmit Cole, W. F. Chapin, Geo. S. Crawford, Gustavus Duerfeldt, Wm. Daily, M. Dunham, A. B. Fuller, Geo. W. Frost, J. G. Graves, J. F. Griffin, Jas. T. Hoile, J. F. Haywood, A. F. Harvey, E. H. Hanlenburg, John E. Kelley, D. S. Parmelee, D. V. Rolfe, Austin Rockwell, D. Slader, A. W. Trumbull, J. A. Unthank, Louis Waldter, Isaac Wiles and John Wallichs.

Mr. Wiles moved that the House proceed to the election of a Committee on Credentials.

Carried.

Messrs. Fuller, Daily, Crowe, Baker and Anderson were nominated.

Messrs. Wiles and Graves were appointed tellers.

A vote was then taken with the following result:

Mr.	Fuller	received	23 votes.
"	Daily	"	23 "
"	Crow	"	21 "
"	Baker	"	22 "
"	Anderson	"	22 "
"	Rolfe	"	1 "
"	Trumbull	"	1 "

Whereupon Messrs. Fuller, Daily, Crow, Baker and Anderson were declared duly elected.

The Committee on Credentials now appeared and submitted the following report:

Mr. Speaker:

The Committee on Credentials, to whom was referred the credentials of the several members of the House, have had the same under consideration, and instruct me to report that they have found the following named gentlemen elected to seats within this House.

Richardson County—J. T. Hoile, Gustavus Duerfeldt, Thos. J. Collins and J. M. Deweese.

Pawnee County—J. R. Butler.

Nemeha County—C. F. Haywood, Geo. Crowe, Louis Waldter and William Daily.

Otoe County—J. G. Graves, D. P. Rolfe, D. M. Anderson and A. F. Harvey.

Cass County—Isaac Wiles, W. F. Chapin, D. Cole and A. B. Fuller.

Lancaster County—E. H. Hardenburgh.

Lancaster, Seward and Saunders Counties—E. L. Clark.

Sarpy County—Geo. N. Crawford and A. W. Trumbull.

Douglas County—J. F. Griffin, M. Dunham, D. S. Parmelee and G. W. Frost.

Platte County—J. E. Kelley.

Platte, Merrick, Hall and Buffalo Counties—John Walliche.

Washington County—D. Slader and J. A. Unthank.

Burt and Cuming Counties—Austin Rockwell.

Saline, Butler and Lincoln Counties—William Baker.

A. B. FULLER, *Chairman.*

Mr. Chapin moved that the report be accepted and the Committee discharged.

Carried.

Mr. Wiles moved to adopt the report, and that those claiming seats be admitted according to the recommendation of the Committee.

Carried.

Mr. Fuller moved that a Committee be appointed to wait upon the Governor of the Territory, Alvin Saunders, and request his Excellency to administer the oath to the members elect.

Messrs. Fuller, Hoile and Crawford were appointed such Committee.

Said Committee having waited upon the Governor, reported that the Governor declined administering said oath.

Judge Dundy being present, Mr. Daily moved that he be requested to administer the following oath:

"You, and each of you, do solemnly swear that you will support the Constitution of the United States, and faithfully perform the duties enjoined upon you by the act of Congress, admitting Nebraska into the Union."

Carried.

Judge Dundy appeared within the bar and administered the oath accordingly.

Mr. Kelley moved that the House do now proceed to a permanent organization.

Carried.

Messrs. Hoile and Trumbull were appointed tellers.

Mr. Kelley moved to proceed to the election of a Speaker of the House.

Mr. Kelley nominated Mr. Chapin.

Mr. Harvey nominated Mr. Crawford.

A vote was then taken with the following result:

Mr. Chapin received 20 votes.
Mr. Crawford 8 votes.

Mr. Chapin having received a majority of all the votes, was declared duly elected.

Messrs. Crawford, Daily and Butler were appointed a Committee to conduct the Speaker elect to the Chair.

At this time a Committee from the Senate appeared and informed the House that the Senate had elected E. H. Rogers President, and O. B. Hewett Sec'y, and had fully organized and were ready to proceed to business.

Mr. Harvey nominated Mr. Bowen for Chief Clerk—Mr. Unthank withdrew Mr. Bowen's name.

Mr. Fuller nominated H. W. Merrille.

A vote was then taken with the following result:

Mr. Merrille received 19 votes.
Mr. Bowen received 8 votes.
Mr. Brewster received 1 vote.

Mr. Merrille, having received a majority of all the votes, was declared duly elected.

Mr. Kelley nominated Mr. Myers for Asstisant Clerk.

A vote was then taken with the following result:

Mr. Myers received 19 votes.
Mr. Brewster received 2 votes.

Mr. Myers, having received a majority of all the votes, was declared duly elected.

Revs. Rose and Lemon were put in nomination for Chaplain of the House.

A vote was then taken, which resulted as follows:

Rev. Rose received 18 votes.
Rev. Lemon received 7 votes.

Rev. Rose, having received a majority of all the votes, was declared duly elected.

Mr. Horton and Mr. Driskol were put in nomination for Sergeant-at-Arms.

A vote was then taken, which resulted as follows:

Mr. Horton received 16 votes.
Mr. Driskol received 6 votes.

Mr. Horton, having received a majority of all the votes, was declared to be duly elected.

Mr. C. L. Bristol and Mr. Stephens were put in nomination for Door Keeper of the House.

A vote was then taken, which resulted as follows:

Mr. Bristol received 16 votes.
Mr. Stephens received 6 votes.

Mr. Bristol, having received a majority of all the votes, was declared to be duly elected.

Jacob Bolivar was nominated for Fireman of the House.

A vote was then taken, which resulted as follows:

Mr. Bolivar received 22 votes, all the votes cast, whereupon he was declared to be unanimously elected.

Matthew Clark was nominated for Enrolling and Engrossing Clerk.

A vote was then taken which resulted as follows:

Mr. Clark received 24 votes, all the votes cast, whereupon he was declared to be unanimously elected.

Masters McLain and Knox were put in nomination for Pages for the House.

There being no other nominations, on motion they were declared to be unanimously elected by acclamation.

Mr. Fuller moved that Judge Dundy be requested to come forward and administer the oath of office to the officers elect of this House.
Carried.

Accordingly Judge Dundy appeared within the bar, and administered said oath.

On motion, Messrs. Griffin, Frost and Haywood were appointed a Committee to inform the Senate that the House had organized, and were ready to proceed to business.

Mr Harvey asked leave of absence for the session—objections being made, leave was not granted.

On motion, a Committee of two were appointed, to act with a like Committee on the part of the Senate, to wait upon the Governor of the Territory, and inform him that the two Houses are organized, and ready to receive any communication he may have to make to them.

On motion, a Committee of three were appointed to repair to the Senate Chamber and invite that body to meet the House in Joint Session in the Representatives' Hall.

The Committee appointed to wait upon the Governor, appeared and reported to the House that they had waited upon the Governor, who had informed them that he was then ready to meet the two Houses in Joint Convention.

On motion, the Committee were discharged.

The Committee appointed to invite the Senate to the Representatives' Hall reported that they had discharged that duty.

The Senate now appeared, and were received by the House into the Hall.

The Convention was called to order by the President of the Senate.

On motion, a Committee of five was appointed by the President, two on the part of the Senate, and three on the part of the House, to wait upon the Governor of the Territory, and inform him that the Legislative Assembly of the State of Nebraska, in Joint Convention, was ready to receive any communication which he might be pleased to make.

The committee returned; the Governor announced; and upon being presented to the Convention, by the President, His Excellency delivered the following Message:

GOVERNOR'S MESSAGE.

Gentlemen of the Senate and House of Representatives:

In pursuance of an Act of Congress certified to have been passed on the 8th and 9th of February, 1867, you have been convened in extra session for the purpose of taking such action as you may think proper in regard to adopting or rejecting certain proposed conditions which are made precedent to the admission of Nebraska into the Union as an independent State. The Constitution, as you are well aware, which was adopted by the people of the Territory in June last, restricted or limited the privileges of the elective franchise to the "White male citizens of the State." Congress, near the close of the last session passed a bill to accept our constitution just as it had been made and adopted by the people of the Territory; the President of the United States withheld his signature from the bill, and consequently it failed to become a law. A similar bill was presented at the commencement of the present Congress; but certain conditions were attached to the bill and these conditions must be first accepted and approved by you before the State can be properly admitted as provided by this Act.

The following is certified to me as being a true copy of the bill as it passed both houses of Congress:

[PUBLIC—No. 21.]

An Act for the admission of the State of Nebraska into the Union.

Whereas, On the 21st day of March, A. D. eighteen hundred and sixty-four, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so

formed, into the Union upon compliance with certain conditions therein specified. And, *Whereas*, It appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with conditions of said act, and to be republican in its form of government, and that they now ask admission into the Union: Therefore.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the constitution and State government which the people of Nebraska have formed for themselves be, and the same is hereby accepted, ratified, and confirmed, and that the said State of Nebraska shall be, and is hereby declared to be, one of the United States of America, and is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted*, That the said State of Nebraska shall be, and is hereby declared to be, entitled to all the rights, privileges, grants, and immunities, and to be subject to all the conditions and restrictions of an act entitled "An act to enable the people of Nebraska to form a constitution and state government, and for the admission of such State into the Union on an equal footing with the original States," approved April nineteenth, eighteen hundred and sixty-four.

SEC. 3. *And be it further enacted*, That this act shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition that the legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act; upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete. Said State Legislature shall be convened by the Territorial Governor within thirty days after the passage of this act, to act upon the condition submitted herein.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
LA FAYETTE S. FOSTER,
President of the Senate *pro tempore*.

IN SENATE OF THE UNITED STATE,
February 8th, 1867.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act for the admission of the State of Nebraska into the Union, with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest, J. W. FORNEY,
Secretary of the Senate.
By W. J. McDONALD,
Chief Clerk.

IN THE HOUSE OF REPRESENTATIVES OF THE U. S.
February 9, 1867.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act for the admission of the State of Nebraska into the Union," returned to the Senate by the President of the United States, with his objections, and sent by the Senate to the House of Representatives with the message of the President returning the bill—

Resolved, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest, EDWARD MCPHERSON, *Clerk*.

It no doubt would have been more satisfactory to you, as I frankly confess it would have been to me, if Congress had given the settlement of this question directly to the people of the Territory, instead of requiring of you, who were not particularly instructed on this subject, to take upon yourselves the whole responsibility of deciding this subject for them. But we must now meet the question as we find it, or as it has been presented by Congress. That a great revolution or change in the minds of the people of our whole country, in regard to granting equal and exact justice to all men, irrespective of race or color, is in proof before us, not only by the action of Congress, but also by the action of the people themselves in a large majority of the States of the Union. My opinion is, that this liberal spirit is rapidly on the increase among the people of our own Territory, and if such should be your belief, it would cause you to have much less hesitancy about accepting the conditions proposed than you otherwise might have.

The day, in my opinion, is not far distant when property qualifications, educational qualifications and color qualifications, as precedent to the privilege of voting, will be known no more by the American people; but that intelligence and manhood will be the only qualifications necessary to entitle an American citizen to the privileges of an elector.

Gentlemen of the Nebraska Legislature, I now, with these concise statements of the case, leave the whole subject in your hands, believing that you will act for your respective constituents, and for the whole people of the Territory in such manner as will best reflect their sentiments and their wishes, hoping that harmony and fraternal feeling may characterize your deliberations.

ALVIN SAUNDERS.

EXECUTIVE OFFICE, Omaha, February 20, 1867.

On motion, the Convention now adjourned, *sine die*.

The House was now called to order by the Speaker.

Mr. Fuller moved that the House do now resolve itself into a committee of the whole to take into consideration the Governor's Message.

Carried.

And the House accordingly went into committee of the whole, Mr. Fuller in the Chair.

The Committee, having been in session some time, rose, and through their Chairman, asked leave to report House Bill No. 1, entitled, "Fundamental condition demanded of Nebraska ere she can be admitted into the Union."

Leave being granted, the Bill was taken up and read first time.

On motion, the rule was suspended, and the Bill read the second time, by its title, and referred to a Special Committee, with instructions to report immediately.

Mr. Parmelee moved that the House order of St. A. D. Balcombe, one thousand copies of the Governor's Message, to be delivered to the House to-morrow morning.

Carried.

Mr. Fuller, Chairman of Special Committee, to whom was referred House Bill No. 1, reported the same back to the House without amendment, and recommended its passage.

MESSAGE FROM THE SENATE.

SENATE CHAMBER,
Wednesday, Feb. 20, 1867.

Mr. Speaker:

I am instructed to inform your honorable body, that the Senate has passed a bill of the following title: Senate Bill No. 1—"An act declaring the assent of the State of Nebraska to an act of the Congress of the United States entitled 'An act for the admission of the State of Nebraska into the Union,' passed Feb. 9, 1867."

O. B. HEWITT, *Sec.*

Mr. Fuller moved to take up Senate Bill No. 1.

Carried.

Senate Bill No. 1, read first time.

Mr. Fuller moved that rule be suspended that the Bill may be read a second and third time by its title.

Carried.

Bill read second and third time.

Mr. Crawford moved to indefinitely postpone the consideration of the Bill.

Upon which the ayes and nays were demanded.

Ayes—Messrs. Crawford, Dunham, Graves, Harvey, Rolfe and Trumble—6.

Nays—Messrs. Butler, Clark, Cole, Collins, Crowe, Daily, Frost, Fuller, Griffin, Hardenburgh, Haywood, Hoile, Kelley, Parmelee, Rockwell, Slader, Wallichs, Waldter, Wiles and Unthank—20.

So the motion to indefinitely postpone was lost.

Mr. Fuller moved the previous question upon the pending motion to put the Bill upon its passage.

The demand was seconded.

The Speaker put the question: "Shall the main question be now put?" which was agreed to.

Question being taken upon the passage of the Bill, the ayes and nays were demanded.

Ayes—Messrs. Butler, Clark, Cole, Collins, Crowe, Frost, Fuller, Griffin, Hardenburgh, Haywood, Hoile, Kelley, Parmelee, Rockwell, Slader, Wallichs, Wiles, Waldter, Unthank and Mr. Speaker—20.

Nays—Messrs. Crawford, Dunham, Graves, Harvey, Rolfe and Trumble—6.

So the Bill passed and the title agreed to.

MESSAGE FROM THE SENATE.

SENATE CHAMBER,
Wednesday, Feb 20, 1867.

Mr. Speaker:

I am instructed to inform your Honorable Body that the Senate has passed the following Joint Resolution:

Resolved, That the Governor of the Territory of Nebraska be requested to transmit a certified copy of the act, accepting the conditions of the act of Congress for the admission of Nebraska into the Union, to the President of the United States.

The concurrence of the House is requested.

O. B. HEWITT, *Sec'y*

Mr. Parmelee moved that the House do concur in the Joint Resolution. Carried.

On motion of Mr. Frost, the House adjourned until 10 o'clock A. M. to-morrow.

HOUSE OF REPRESENTATIVES,
Thursday, February 21, 1867.

MORNING SESSION.

House met pursuant to adjournment, at 10 o'clock A. M.
Speaker in the chair.
Prayer by the Chaplain.
Roll Called.
Absent—Messrs. Dailey, Frost, Harvey, Rolfe and Trumble.
Journal read and approved.

Mr. Parmelee moved to re-consider the vote by which the "Joint Resolution," relative to the transmittal of a copy of the act passed by both Houses of the State Legislature of Nebraska, entitled, "An act declaring the assent of the State of Nebraska, to an act of the Congress of the United States, entitled,

"An act for the admission of the State of Nebraska into the Union", passed February 9th, 1867," to the President of the United States, which was agreed to.

Mr. Parmelee moved to amend the Resolution as follows: Strike out the letter "a," and insert "two" in the 7th line, and strike out "copy" and insert "copies" in the same line, and add, one copy to be sent by mail, and one copy by the hand of Hon. J. M. Thayer, U. S. Senator for Nebraska, which was agreed to.

On motion of Mr. Parmelee, the Resolution, as amended, was adopted.

Mr. Baker asked leave to have his name entered upon the Journal as voting in the negative upon the passage of Senate Bill No. 1.

No objection being made, it was so ordered.

Mr. Anderson asked leave to have his name entered upon the Journal as voting in the negative upon the passage of Senate Bill No. 1.

No objection being made, it was so ordered.

Mr. Harvey moved to rescind the order for printing one thousand copies of the Governor's Message, for the use of the House, to-day, which was agreed to.

MESSAGE FROM THE SENATE.

SENATE CHAMBER,
Thursday, February 21st, 1867.

Mr. Speaker:

The Senate has concurred in the amendments of the House, of the Joint Resolution, relative to the transmittal of the copies of Senate Bill No. 1, to the President of the United States.

[Signed,] O. B. HEWITT, *Secretary.*

MESSAGE FROM THE SENATE.

SENATE CHAMBER,
Thursday, February 21st, 1867.

Mr. Speaker:

The Senate has adopted the following Concurrent Resolution, to wit:

Resolved, That the Legislature of the State of Nebraska, do adjourn *sine die*, at 12 o'clock M., of this day.

[Signed,] O. B. HEWITT, *Secretary.*

On motion of Mr. Wiles, the Concurrent Resolution was adopted.

Mr. Frost moved that the final approval of the Journal be left to the next State Legislature, which was agreed to.

Journal read and approved.

On motion of Mr. Griffin, a Committee of three were appointed to wait upon the Senate, and inform that body of the readiness of the House to adjourn.

Messrs. Griffin, Wiles and Butler were appointed such Committee.

Mr. Graves moved that there be ordered printed, five copies of the Governor's Message, for each member of this House, to be forwarded to the address of each member, at the expense of the State. Agreed to.

Mr. Griffin, from the Committee to wait upon the Senate, reported that they had notified that body of the readiness of the House to adjourn.

Mr. Rockwell moved a call of the House, which was so ordered.

On motion of Mr. Fuller, all further proceedings under the call were dispensed with.

Committee from the Senate announced that that body were ready to adjourn.

Mr. Rockwell moved a vote of thanks to the Speaker and officers of this House, for the very efficient manner in which they had performed the duties of their office.

Unanimously agreed to.

The hour of 12 o'clock M., having arrived, Mr. Kelley moved that we do now adjourn *sine die*.

Agreed to.

H. W. MERRILLE, *Chief Clerk.*